

Senate Bill No. 488

CHAPTER 205

An act to amend Sections 7028 and 7125.4 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 6, 2005. Filed with
Secretary of State September 6, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 488, Soto. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law makes it a misdemeanor for any person to engage in the business or act in the capacity of a contractor without having a license. Existing law requires, with exceptions, that a repeat offender be confined in a county jail for not less than 90 days. Existing law requires a court to state on the record its reasons if the court imposes a jail sentence of less than 90 days or only a fine.

This bill would also make 3rd and subsequent convictions of these offenses punishable by a fine of not less than \$4,500 nor more than the greater amount of either \$10,000 or 20% of the contract price under which the unlicensed person performed contracting work or by imprisonment or by both that fine and imprisonment.

Existing law generally requires an applicant for a contractors' license or a licensee to have on file with the board a Certificate of Workers' Compensation Insurance or a Certification of Self-Insurance. Existing law provides that failure to comply with these provisions constitutes cause for disciplinary action.

This bill would also make any qualifier for a license guilty of a misdemeanor for committing or failing to prevent the commission of any of these acts that are cause for disciplinary action.

Because failure to comply with the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 7028 of the Business and Professions Code is amended to read:

7028. (a) It is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless the person is particularly exempted from the provisions of this chapter.

(b) If a person has been previously convicted of the offense described in this section, unless the provisions of subdivision (c) are applicable, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, and, unless the sentence prescribed in subdivision (c) is imposed, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a jail sentence of less than 90 days for second or subsequent convictions under this section, the court shall state the reasons for its sentencing choice on the record.

(c) A third or subsequent conviction for the offense described in this section is punishable by a fine of not less than four thousand five hundred dollars (\$4,500) nor more than the greater amount of either ten thousand dollars (\$10,000) or 20 percent of the contract price under which the unlicensed person performed contracting work or by imprisonment in a county jail for not more than one year or less than 90 days, or by both that fine and imprisonment. The penalty provided by this subdivision is cumulative to the penalties available under all other laws of this state.

(d) In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(e) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section by the unlicensed contractor shall be found or an information or complaint filed within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

SEC. 2 Section 7125.4 of the Business and Professions Code is amended to read:

7125.4. (a) The filing of the exemption certificate prescribed by this article that is false, or the employment of a person subject to coverage under the workers' compensation laws after the filing of an exemption certificate without first filing a Certificate of Workers' Compensation Insurance or Certification of Self-Insurance in accordance with the provisions of this article, or the employment of a person subject to

coverage under the workers' compensation laws without maintaining coverage for that person, constitutes cause for disciplinary action.

(b) Any qualifier for a license who, under Section 7068.1 is responsible for assuring that a licensee complies with the provisions of this chapter, is also guilty of a misdemeanor for committing or failing to prevent the commission of any of the acts that are cause for disciplinary action under this section.

SEC. 3 No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.